

Customs Bulletin

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concerning Customs and related matters



and Decisions of the United States Court of Appeals for the Federal Circuit and the United States Court of International Trade

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THE DEPARTMENT OF THE TREASURY
U.S. Customs Service

NOTICE

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U.S. Customs Service

Treasury Decisions

19 CFR Part 127

(T.D. 87-63)

CUSTOMS REGULATIONS AMENDMENTS RELATING TO SALE OF UNCLAIMED AND ABANDONED IMPORTED MERCHANDISE

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to allow for the sale of unclaimed and abandoned merchandise in a district other than the district in which the merchandise is imported. It is expected that permitting sales in other districts will often result in higher bids for the merchandise at auction, and thus higher sales prices. Also, Customs will be able to consolidate the sales so that fewer Customs districts will be involved. This will allow for more efficient use of Customs personnel who organize and conduct such sales.

EFFECTIVE DATE: May 29, 1987.

FOR FURTHER INFORMATION CONTACT: John Holl, Office of Cargo Enforcement Facilitation (202-566-8151).

SUPPLEMENTARY INFORMATION:

BACKGROUND

Pursuant to §§ 490 through 493, Tariff Act of 1930, as amended (19 U.S.C. 1490-1493), whenever there is an incomplete entry of imported merchandise, the merchandise is taken into Customs custody and sent to a bonded warehouse or public store until entry is completed and the proper documents are produced, or a bond given for their production.

Generally, if this merchandise, known as "general order", remains in Customs custody for one year from the date of importation, without payment of all estimated duties and storage or other charges, it is considered unclaimed and abandoned to the Government, and may be appraised and sold by Customs at public auction.

Sections 127.0 through 127.37, Customs Regulations (19 CFR 127.0 through 127.37), implement the laws concerning general order merchandise and the disposition of unclaimed and abandoned merchandise. Currently, § 127.22, Customs Regulations (19 CFR 127.22), provides that the district director may only sell general order merchandise that is in his district at any port within his district. On October 17, 1986, Customs published a notice in the Federal Register (51 FR 37043), soliciting comments regarding a proposal to amend § 127.22, Customs Regulations, to allow for the sale of unclaimed and abandoned merchandise in a district other than the one in which the merchandise was imported. No comments were received in response to the notice.

After further review of the proposal, Customs has concluded that permitting the sales in other districts will often result in higher sales prices. Also, Customs will be able to consolidate the sales so that fewer Customs districts will be involved. This will allow for more efficient use of Customs personnel who organize and conduct such sales. Accordingly, § 127.22, Customs Regulations, is being amended as proposed.

EXECUTIVE ORDER 12291

This amendment does not constitute a "major rule" as defined by § 1(b) of E.O. 12291. Accordingly, a regulatory impact analysis is not required.

REGULATORY FLEXIBILITY ACT AND PAPERWORK REDUCTION ACT

It is certified that the amendment will not have a significant impact on a substantial number of small entities. Accordingly, it is not subject to the regulatory analysis or other requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). It is also not subject to the Paperwork Reduction Act of 1980, Pub. L. 96-511.

DRAFTING INFORMATION

The principal author of this document was Harold M. Singer, Regulations Control Branch, U.S. Customs Service. However, personnel from other offices participated in its development.

LIST OF SUBJECTS IN 19 CFR PART 127

Customs duties and inspection, Explosives, Freight, Imports, Unclaimed and abandoned merchandise.

AMENDMENT TO THE REGULATIONS

Part 127, Customs Regulations (19 CFR Part 127), is amended as set forth below.

1. The general authority citation of Part 127 is revised to read as follows:

Authority: 12 U.S.C. 66, 1311, 1484, 1485, 1490, 1491, 1492, 1506, 1559, 1563, 1623, 1624, 1646a; 26 U.S.C. 5753.

2. Section 127.22 is revised to read as follows:

§ 127.22 Place of sale.

All merchandise at a port other than a district headquarters port, which becomes subject to sale (including explosives, perishable articles and articles liable to depreciation), shall be promptly reported to the headquarters port for disposition. The district director at that port, in his discretion, may authorize the sale of such merchandise, as well as merchandise at the headquarters port which is subject to sale, at any port within his district, or in any other district. The consignee of any merchandise which is to be transferred from the district where it was imported to another district for sale, shall be notified of the transfer so that he may have the option of making entry for the merchandise before transfer and sale.

WILLIAM VON RAAB,
Commissioner of Customs.

Approved: April 7, 1987.

JOHN P. SIMPSON,
Acting Assistant Secretary of the Treasury.

[Published in the Federal Register, April 29, 1987 (52 FR 15496)]

CFR Part 101

(T.D. 87-64)

CUSTOMS REGULATIONS AMENDMENT RELATING TO A
CHANGE IN THE CUSTOMS SERVICE FIELD ORGANIZA-
TION—WINSTON-SALEM, NORTH CAROLINA

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to change the Customs field organization by extending and redefining the geographical limits of the port of entry of Winston-Salem, North Carolina to include Guilford and Forsyth Counties. The change is being made as part of Customs continuing program to obtain more efficient use of its personnel, facilities, and resources, and to provide better service to carriers, importers, and the public.

EFFECTIVE DATE: May 29, 1987.

FOR FURTHER INFORMATION CONTACT: Richard Coleman, Of-
fice of Inspection and Control, (202-566-8157).

SUPPLEMENTARY INFORMATION:**BACKGROUND**

In the list of Customs regions, districts, and ports of entry set forth in § 101.3(b), Customs Regulations (19 CFR 101.3(b)), the port of Winston-Salem, North Carolina, is listed in the Wilmington, North Carolina, Customs District in the Southeast Region. As part of a continuing program to obtain more efficient use of personnel, facilities, and resources, and to provide better service to carriers, importers, and the public, by notice published in the Federal Register on May 30, 1985 (50 FR 23827), it was proposed to extend and redefine the geographical limits of the port. Currently, the port limits coincide with the city limits of Winston-Salem. It was proposed to extend the port limits to include Guilford and Forsyth Counties. This extension would mean the Greensboro/High Point/Winston-Salem Regional Airport would be within the port limits. It was also proposed to relocate the Customs office from downtown Winston-Salem to the Regional Airport.

DISCUSSION OF COMMENTS

In response to the notice, only three comments were received. No opposition was raised in regards to the expansion and redefinition of the port limits. Therefore, after further review of the matter, the limits of the port of Winston-Salem are expanded to include Guilford and Forsyth Counties.

Also, after resolution of some issues raised by commenters concerning relocation of the port office from downtown Winston-Salem to the Regional Airport, that aspect of the proposal is being adopted as well. These changes will result in more efficient use of Customs personnel, facilities, and resources, and provide better service to carriers, importers, and the public.

CHANGES IN THE CUSTOMS FIELD ORGANIZATION

The Secretary of the Treasury is advised by the Commissioner of Customs in matters affecting the establishment, abolition, or other change in ports of entry. Customs ports of entry are established under the authority vested in the President by § 1 of the Act of August 1, 1914, 38 Stat. 623, as amended (19 U.S.C. 2), and delegated to the Secretary of the Treasury by Executive Order No. 10289, September 17, 1951 (3 CFR 1949-1953 Comp., Ch. II), and pursuant to authority provided by Treasury Department Order No. 101-05, dated February 17, 1987 (52 FR 6282).

Customs has determined that it is in the public interest to extend and redefine the geographical limits of the port of entry of Winston-Salem. The limits of the port are extended to encompass Guilford and Forsyth Counties, North Carolina.

LIST OF SUBJECTS IN 19 CFR PART 101

Customs duties and inspection, Exports, Imports, Organization and functions (Government agencies).

AMENDMENTS TO THE REGULATIONS

PART 101—GENERAL PROVISIONS

1. The authority citation for Part 101, Customs Regulations (19 CFR Part 101), continues to read as follows:

Authority: 5 U.S.C. 301, 19 U.S.C. 1, 66, 1202 (Gen. Hdnote. 11), 1624, Reorganization Plan 1 of 1965; 3 CFR 1965 Supp.

2. To reflect this change, the list of Customs regions, districts, and ports of entry in § 101.3(b), Customs Regulations (19 CFR 101.3(b)), is amended by removing the phrase, "(E.O. 2366, Apr. 24, 1916)" after "Winston-Salem" in the column headed "Ports of entry" in the Wilmington, North Carolina, Customs District of the Southeast Region and inserting, in its place, the phrase, "including the territory described in T.D. 87- 64."

EXECUTIVE ORDER 12291

Because this will not result in a "major rule" as defined in § 1(b) of E.O. 12291, the regulatory impact analysis and review prescribed by § 3 of that E.O. is not required.

REGULATORY FLEXIBILITY ACT

Pursuant to the provisions of § 605(b) of the Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 601 *et seq.*), it is certified that the change set forth in this document will not have a significant economic impact on a substantial number of small entities. Accordingly, the regulation is not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Customs routinely establishes and expands Customs ports of entry throughout the U.S. to accommodate the volume of Customs-related activity in various parts of the country. Although this amendment may have a limited effect upon some small entities in the area affected, it is not expected to be significant because establishing and expanding Customs port limits in other areas has not had a significant economic impact upon a substantial number of small entities to the extent contemplated by the Act. Nor is it expected to impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities.

DRAFTING INFORMATION

The principal author of this document was John E. Doyle, Regulations Control Branch, Office of Regulations and Rulings, U.S. Cus-

toms Service. However, personnel from other offices participated in its development.

MICHAEL H. LANE,
Acting Commissioner of Customs.

Approved: April 2, 1987.

FRANCIS A. KEATING II,

Assistant Secretary of the Treasury.

[Published in the Federal Register, April 29, 1987 (52 FR 15496)]

U.S. Customs Service

Proposed Rulemakings

19 CFR Part 101

PROPOSED CUSTOMS REGULATIONS AMENDMENT RELATING TO THE CUSTOMS SERVICE FIELD ORGANIZATION—PORT HURON, MICHIGAN

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Proposed rule; solicitation of comments.

SUMMARY: This document proposes to amend the Customs Regulations to change the Customs field organization by extending the geographic limits of the port of entry of Port Huron, Michigan. Currently, Customs officers assigned to the port provide service at many locations which are outside the existing port limits. This proposed expansion will better serve the public by including several locations routinely requiring Customs service within the official port limits.

DATE: Comments must be received on or before June 22, 1987.

ADDRESS: Comments (preferably in triplicate) may be submitted to and inspected at the Regulations Control Branch, U.S. Customs Service, Room 2426, 1301 Constitution Avenue, NW., Washington, D.C. 20029.

FOR FURTHER INFORMATION CONTACT: Richard Coleman, Office of Inspection and Control, (202-566-9425).

SUPPLEMENTARY INFORMATION:

BACKGROUND

As part of a continuing program to obtain more efficient use of its personnel, facilities, and resources, and to provide better service to carriers, importers, and the public, Customs proposes to amend § 101.3, Customs Regulations (19 CFR 101.3), by extending the geographic limits of the port of entry of Port Huron, Michigan, located in the Detroit, Michigan, Customs District in the North Central Region.

By T.D. 53576, dated September 10, 1954, the limits of the Customs port of entry of Port Huron, Michigan, comprising the territory within the corporate limits of that city, were extended to include the territory embracing the municipality of Marysville, and the Townships of Port Huron, Fort Gratiot, Kimball and St. Clair, all in the State of Michigan. There have been no changes in the port limits since that date and Port Huron is so listed as a port of entry in § 101.3(b)), Customs Regulations (19 CFR 101.3(b)).

It has now been proposed to extend the existing port limits to encompass the cities of St. Clair, Marine City and Algonac, Michigan. Algonac and Marine City are currently designated as Customs stations in § 101.4(c), Customs Regulations (19 CFR 101.4(c)).

The purpose of the proposed extension is to permit normal rotation of inspectors to St. Clair, Marine City and Algonac as they are now assigned to other areas within the existing port limits. If the proposed extension is adopted, importers within the expanded port limits would no longer be billed mileage charges. However, the amount is minimal and the expansion would result in no additional workload and would require no additional personnel. The proposed expanded port limits are as follows:

All of the territory encompassing the cities of Port Huron, Marysville, St. Clair, Marine City, and Algonac and the Townships of Port Huron, Fort Gratiot, Kimball and St. Clair, all in the State of Michigan.

If the proposed change is adopted, the list of Customs regions, districts, and ports of entry in § 101.3(b) Customs Regulations, will be amended accordingly.

COMMENTS

Before adopting this proposal, consideration will be given to any written comments timely submitted to Customs. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Control Branch, Room 2426, Customs Service Headquarters, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

AUTHORITY

This change is proposed under the authority vested in the President by § 1 of the Act of August 1, 1914, 38 Stat. 623, as amended (19 U.S.C. 2), and delegated to the Secretary of the Treasury by E.O. No. 10289, September 17, 1951 (3 CFR 1949-1953 Comp. Ch. II) and pursuant to authority provided by Treasury Department Order No. 101-5 (47 FR 2449).

LIST OF SUBJECTS IN 19 CFR PART 101

Customs duties and inspection, Imports, Organization and functions (Government agencies).

EXECUTIVE ORDER 12291 AND REGULATORY FLEXIBILITY ACT

Because this document relates to agency organization it is not subject to E.O. 12291. Accordingly, a regulatory impact analysis and the review prescribed by that E.O. are not required. Similarly, this document is not subject to the regulatory analysis and other requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Customs routinely establishes and expands Customs ports of entry throughout the U.S. to accommodate the volume of Customs-related activity in various parts of the country. Although this amendment may have a limited effect upon some small entities in the area affected, it is not expected to be significant because establishing and expanding port limits in other areas has not had a significant economic impact upon a substantial number of small entities to the extent contemplated by the Act. Nor is it expected to impose, or otherwise cause, a significant increase in the reporting, record-keeping, or other compliance burdens on a substantial number of small entities.

DRAFTING INFORMATION

The principal author of this document was Bruce J. Friedman, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

MICHAEL H. LANE,
Acting Commissioner of Customs.

Approved: April 2, 1987.

FRANCIS A. KEATING II,

Assistant Secretary of the Treasury.

[Published in the Federal Register, April 23, 1987 (52 FR 13473)]

19 CFR Part 175TARIFF CLASSIFICATION OF STEEL PRODUCTS
MANUFACTURED FROM U.S. SCRAP

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Proposed interpretive rule; solicitation of comments.

SUMMARY: A petition has been submitted on behalf of domestic interested parties regarding Customs tariff classification of steel products manufactured abroad from exported U.S. scrap metal. The petitioners state that a ruling letter which is the basis for the cur-

rent classification of the product under item 806.30, Tariff Schedules of the United States (TSUS), is an incorrect interpretation of the TSUS. Item 806.30, TSUS, states that any article of metal (except precious metal) manufactured in the U.S. if exported for further processing, and if the exported article as processed outside of the U.S., or the article which results from the processing outside the U.S., is returned to the U.S. for further processing, shall be subject to duty only upon the value of such processing that occurs outside the U.S.

The petitioner states that the ruling is improper because the legislative history of item 806.30, TSUS, demonstrates that it was not intended to apply to the processing of scrap into flat-rolled steel products. Further, the requirements of the provision are not met because scrap is not manufactured or subjected to a process of manufacture within the meaning of the provision. Petitioners also challenge the method by which Customs distinguishes foreign scrap from U.S. scrap. Finally, petitioners claim that the manufacture of flat-rolled products into unfinished steel products in the U.S. is not further processing within the meaning of the provision because the flat-rolled products are already finished articles. The petitioners claim that the steel products are to be classified under the relevant items for metal and metal products of Schedule 6, TSUS. This document invites comments with respect to the correct classification of such products.

DATE: Comments must be received on or before June 29, 1987.

ADDRESS: Comments (preferably in triplicate) may be addressed to and inspected at the Regulations Control Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Room 2426, Washington, D.C. 20229 (202-566-8237).

FOR FURTHER INFORMATION CONTACT: Earl Martin, Classification and Value Division, (202-566-2938).

SUPPLEMENTARY INFORMATION:

BACKGROUND

Pursuant to § 516, Tariff Act of 1930, as amended (19 U.S.C. 1516), and Part 175, Customs Regulations (19 CFR Part 175), a domestic interested party petition has been filed with respect to decisions which are the basis for Customs current classification of steel products manufactured abroad from exported U.S. scrap metal under item 806.30, Tariff Schedules of the United States (TSUS) (19 U.S.C. 1202). Item 806.30, TSUS, provides that any article of metal (except precious metal) manufactured or subjected to a process of manufacturing in the U.S. if exported for further processing, and if the exported article as processed outside the U.S., or the article which results from the processing outside the U.S., is returned to

the U.S. for further processing, shall be subject to duty only upon the value of such processing that occurs outside the U.S.

On July 23, 1984, Customs issued Ruling #553126 which held that item 806.30, TSUS, is applicable to steel scrap of U.S. origin exported for melting and casting into basic metal shapes and forms and returned to the U.S. for further processing.

On November 14, 1986, a petition was submitted on behalf of several domestic producers of specialty steel. The petitioners contend that the ruling is incorrect for several reasons. First, the legislative history to item 806.30, TSUS, demonstrates that Congress never intended it to apply to the processing of scrap into flat-rolled steel products. The petitioners aver that the legislative history of item 806.30, TSUS, dictates that the item be used for the limited purpose of allowing U.S. manufacturers to obtain an intermediate processing step abroad in an emergency.

The petitioners claim that the requirements of item 806.30, TSUS, are not met because scrap is not a product that is manufactured or subjected to a process of manufacture. Petitioners contend that scrap is akin to waste and is a raw material input to the production of a final product. Further, the petitioner claims that Customs rulings are ambiguous and inconsistent with prior rulings distinguishing foreign scrap from U.S. scrap.

Finally, petitioners claim that the manufacturing operations conducted overseas in manufacturing the products from scrap are not further processing to produce an intermediate product, which may then be imported into the U.S. for further processing to produce a completed product. Rather, the imported articles are finished products which are in turn sold to industrial consumers in the U.S. and applied to the purpose for which they were intended.

COMMENTS

Pursuant to § 175.21(a), Customs Regulations (19 CFR 175.21(a)), before making a determination on this matter, Customs invites written comments from interested parties on this issue. The domestic interested party petition, as well as all comments received in response to this notice, will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Control Branch, Room 2426, Customs Headquarters, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

This notice is published in accordance with § 175.21(a), Customs Regulations (19 CFR 175.21(a)).

DRAFTING INFORMATION

The principal author of this document was Bruce J. Friedman, Regulations Control Branch, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

MICHAEL H. LANE,
Acting Commissioner of Customs.

Approved: April 9, 1987.

JOHN P. SIMPSON,
Acting Assistant Secretary of the Treasury.

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